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10 ATTORNEY FOR DEFENDANT
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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE ROGER T. BENITEZ, JUDGE)**

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10 UNITED STATES OF AMERICA,) CASE NO. 07CR3315BEN
11 PLAINTIFF,)
12 VS.) MEMORANDUM OF POINTS AND
13 ALEJANDRO SAUCEDO-VIRGEN,) AUTHORITIES IN SUPPORT OF
14 DEFENDANT.) EX-PARTE APPLICATION FOR
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**EXTRAORDINARY EXPENSES SHOULD BE
AUTHORIZED TO PERMIT COUNSEL TO HIRE
A PRIVATE INVESTIGATOR TO ASSIST COUNSEL
IN LOCATING AND INTERVIEWING WITNESSES,
AND LOCATING EVIDENCE.**

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Title 18 United States Code Sections 3006A(e) (1) permits counsel for an indigent defendant to request authorization for expenses relating to investigation, expert witnesses, or other services necessary for an adequate defense. The court, following an ex-parte hearing on the application, may authorize counsel to obtain the services. If the investigation, expert witnesses, or other services necessary for an adequate defense exceeds the amount of \$1,000.00, the payment must be approved by the chief of the United States Court of Appeals for the Ninth Circuit prior to payment. In all criminal prosecutions, the accused shall enjoy the right.... to be informed of the nature and

1 cause of the accusation....to have compulsory process for obtaining witnesses in his favor, and have
2 the assistance of counsel for his defense.

Sixth Amendment: United States Constitution.

4 The Sixth Amendment reference to the assistance of counsel has been interpreted by the
5 courts to mean effective assistance of counsel. *Cooper v. Fitzharris*, 586 F. 2d 1325 (9th Cir. 1978)
6 cert. Den., 440 U.S. 974. (Emphasis added). Mere physical presence of an attorney does not fulfill
7 the Sixth Amendment entitlement of effective assistance of counsel. *Javor v United States*, 724 F. 2d
8 831(9th Cir. 1984).

9 The Sixth Amendment right to counsel implies much more than a minimum level of
10 professional competence. Undivided loyalty and fidelity of commitment are the guiding principles in
11 this important area of the Sixth Amendment jurisprudence. *United States v. Alvarez*, 580 F 2d
12 1251(5th Cir 1978).

13 In order to properly prepare for the defense it is essential that counsel be permitted to hire a
14 Private Investigator.

III

CONCLUSION

17 For the foregoing reasons and based upon the above Memorandum of Points and Authorities
18 and the attached Declaration of Counsel, ALEJANDRO SAUCEDO-VIRGEN requests that this
19 court authorize fifteen(15) additional hours, at this time for the purpose of a Private Investigator to
20 prepare a defense.

23 | DATED: January 29, 2008

Paul W. Sturz

PAUL W. BLAKE,
Attorney for Defendant